

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. The petitioner does not dispute any of the figures

used by the Department. She also does not dispute that the program income maximum for a single person is \$1,164 a month.

4. Although her income recently increased, the petitioner maintains that it is only temporary because she is a college teacher who is only employed sporadically on a semester-to-semester basis. The petitioner stated that she will be unemployed for a few months at the end of the current semester. Thus, she argues that the Department should average her income over the course of her current six-month VHAP eligibility period, which based on her current income would render her eligible for VHAP.

5. The petitioner did not allege that she is in any way unemployable when she is not teaching or that it would be unreasonable to expect that she could obtain another job when she is not teaching.

ORDER

The decision of the Department is affirmed.

REASONS

Under the VHAP regulations, all earned and unearned income is included as countable income for eligibility. W.A.M. 4001.81(c). For employees the only deduction allowed is a \$90 standard deduction. There is no dispute that the

petitioner in this matter presently has countable income in excess of the maximum for eligibility under the VHAP program for a single individual, which is \$1,164 a month. P-2420 B (16). If an applicant has income above this amount, she cannot be found eligible for that program. W.A.M. 4001.83 and 4001.84.

The regulations also provide as follows:

. . . Income in the month of application (or review) and future months is estimated based on income in the calendar month prior to the month of application (or review) unless changes have occurred or are expected to occur and this income does not accurately reflect ongoing income. If changes are expected to occur, and estimate of income based on current information should be used
. . .

W.A.M. § 4001.81

The petitioner argues that because her teaching position will end at the end of this semester (presumably at the end of May) the Department should consider her income over a six-month eligibility period beginning in February 2004, which would yield an average income under the VHAP maximum, *assuming that the petitioner becomes unemployed at the end of this semester*. However, it is this assumption, i.e. that the petitioner will, in fact, be unemployed after May 2004, that the Department deems insufficient to *require* it to average the petitioner's income under the above regulation.

As noted above, the petitioner has made no showing that it is at all likely to expect that she would have no income whatsoever as of the end of May 2004. A reasonable reading of the above regulation does not require the Department to average an individual's income solely on the say-so of the applicant. The petitioner in this case is a highly educated professional. In the absence of any indication otherwise, there is no basis to believe, other than perhaps her own motivation, that she would not be able to obtain another source of income at the end of the current semester she is now teaching.

Inasmuch as it is concluded that the Department's decision is in accord with the applicable regulations, the Board is bound to uphold the Department's decision in this matter. 3 V.S.A. 3091(d), Fair Hearing Rule 17.

#